

BEFORE THE HEARINGS PANEL

IN THE MATTER

of the Resource Management
Act 1991

AND

IN THE MATTER

of Proposed District Plan for
Waimakariri District Council
2023

EVIDENCE OF SAMANTHA KEALEY ON BEHALF OF MR ANDREW CARR

1 May 2023

1. INTRODUCTION

- 1.1 My full name is Samantha Leeanne Kealey. I am a planning consultant, employed by Town Planning Group as a Senior Planner and I am an intermediate member of the New Zealand Planning Institute. I hold a Bachelor of Planning from the University of Auckland.
- 1.2 I have seven and a half years' experience in the field of resource management planning and on numerous occasions have provided planning evidence before Council hearing panels. Prior to my current employment I worked as a Senior Processing Planner for the Waimakariri District Council from January 2019 to October 2022.
- 1.3 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 and I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.
- 1.4 The key documents I have used, or referred to, in forming my view while preparing this supplementary statement of evidence are:
- (a) The Waimakariri District Council Proposed District Plan (**WDC PDP**);
 - (b) The section 32 evaluation and accompanying information for the Proposed District Plan;
 - (c) The Council officers' s42A report; and
 - (d) The submission filed by Mr Andrew Carr.

2. SCOPE OF EVIDENCE

- 2.1 Mr Carr lodged a submission on several provisions within the WDC PDP. This statement of evidence provides a response to the Council officer's s42 report in accordance with Minute 1 issued by the Hearing Panel. The specific provisions addressed by this evidence are:

- (a) Urban Form and Development (**UFD**)
- (b) Strategic Directions (**SD**)

3. Definition of “Urban Environment”

3.1 Mr Carr’s submission sought that the definition of Urban Environment be amended to include reference to the Large Lot Residential Zone Overlay (LLRZO). The notified definition of “Urban Environment” is:

means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:

- a. is, or is intended to be, predominantly urban in character;*
and
- b. is, or is intended to be, part of a housing and labour market of at least 10,000 people.*

For Waimakariri District, the urban environment described in (a) and (b) comprises the towns of Rangiora, Kaiapoi, Woodend (including Ravenswood), Pegasus, Oxford, Waikuku, Waikuku Beach, The Pines Beach, Kairaki, Woodend Beach, the small towns of Ashley, Sefton, Cust, Ohoka, Mandeville, and all Large Lot Residential Zone areas and Special Purpose Zone (Kāinga Nohoanga).

Background to the development of the LLRZO

3.2 The Waimakariri District Council Rural Residential Development Strategy (**RRDS**) provides the framework for the future provision of land zoned for rural residential purposes in the Waimakariri District. This document was then used to inform the WDC PDP as to what areas were to be re-zoned. The LLRZO was implemented following the Council’s s32 report, however, has taken a “deal with this land later” approach and does not implement the findings or conclusions of the Rural Residential Development Strategy. The Waimakariri 2048 District Development Strategy (**WDDS**) states the primary focus

for rural residential development is on creating new rural residential areas.¹

- 3.3 The submitter's primary relief is that the LLRZO is not an appropriate mechanism to give effect to the NPS-UD and that the site is more appropriately zoned as Large Lot Residential. This will be addressed in evidence in the appropriate hearing stream.
- 3.4 However, it is apparent that the LLRZO indicates existing rural areas where future residential use is anticipated.

Consistency with Higher Order Documents

- 3.5 The definition is partially sourced from the National Policy Statement on Urban Development (**NPS-UD**), but also includes specific detail relevant to Waimakariri District, including Large Lot Residential Zone Areas.
- 3.6 In my opinion, the NPS-UD is directive as to what constitutes an urban environment and I do not recommend any amendments to the definition that are sourced directly from the NPS-UD. However, I consider that the Waimakariri District specific description contained in the second part of the definition creates some inconsistency with higher order documents, with the reasons outlined in the following paragraphs:
- 3.7 The NPS-UD provides for future urban areas as follows (emphasis mine):
 - (a) **Objective 1:** New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.
 - (b) **Objective 4:** New Zealand's urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.

¹ Waimakariri 2048 District Development Strategy, page 5 and page 21

(c) **Objective 6:** Local authority decisions on urban development that affect urban environments are:

A. integrated with infrastructure planning and funding decisions; and

B. strategic over the medium term and long term; and

C. responsive, particularly in relation to proposals that would supply significant development capacity.

(d) **Policy 2:** Tier 1, 2, and 3 local authorities, at all times, provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term, and long term.

3.8 The National Policy Statement for Highly Productive Land (**NPS-HPL**) defines land “*identified for future urban development*” as land that has been identified in a published Future Development Strategy. Mr Carr’s site has been identified within the Waimakariri Rural Residential Development Strategy published June 2019 and is therefore identified for future urban development land in terms of the NPS-HPL.

3.9 Also of assistance are the National Planning Standards. I note:

(a) these identify Large Lot Residential Zones as residential (not rural); and

(b) the zone description of “future urban zone” includes “*Areas suitable for urbanisation in the future and for activities that are compatible with and do not compromise potential future urban use.*”

3.10 In my opinion, land that is subject to the LLRZO is clearly signalled as a future urban area, and to not recognise it as such creates inconsistency with the higher order planning documents.

3.11 In my opinion, inclusion of the LLRZO into the definition of “Urban Environment” in the Proposed Plan is appropriate to give effect to higher order planning documents, as I touch on further below.

Integration with WDC PDP provisions

- 3.12 The LLRZO provides for future residential use (being an urban use), however as the PDP is currently drafted, the rural provisions apply to land located in the LLRZO. These provisions seek outcomes appropriate to a rural environment² while lacking recognition that the land is earmarked as part of the future urban environment.
- 3.13 Further, land within the LLRZO falls into a gap between Strategic Direction Objectives SD-O2 and SD-O4. The LLRZO land is not part of an urban environment in the definition as notified, to which SD-O2 relates. However, SD-O4 relating to rural land specifically excludes "*identified residential development areas*". While this term is not defined, it logically includes future urban development areas identified by the LLRZO.
- 3.14 In my opinion, inclusion of the LLRZO in the definition of Urban Environment addresses this gap and ensures that WDC PDP provisions appropriately provide for land subject to the LLRZO as part of a future urban environment.

S42A report

- 3.15 The Council officer's s42A report considers that the site must undergo a plan change to utilise the overlay. I consider this to be inefficient, unduly restrictive of developments and inconsistent with the higher order documents for the following reasons:
- (a) The Rural Residential Strategy projects demand of approximately 385 rural residential households over the next 10 years from 2019.³ By requiring a subsequent private plan change approach, these households are unlikely to be delivered in the nominated timeframe, noting the restriction period of two years for a private plan change following decisions on a proposed plan.

² RURZ-O2, RURZ-O2 and RLZ-O1

³ <https://www.waimakariri.govt.nz/your-council/district-development/rural-residential-development#:~:text=The%20Rural%20Residential%20Development%20Strategy,production%20and%20rural%20character%20purposes.>

- (b) The NPS-UD Objective 1 to enable people to provide for their social, economic and cultural well-being now and into the future.⁴ The requirement for an ODP over multiple landparcels has the effect of delaying development until all landowners are ready to proceed with an ODP and development, due to the economic realities of undertaking the technical work necessary to produce an ODP in accordance with the WDC PDP requirements.
- (c) It is clear that if the LLRZO is not included within the urban environment definition there is the risk that an alternative use could be adopted that would prevent the outcomes sought by the overlay from ever being achieved.

3.16 The LLRZO aligns with the RRDS and the urban environment envisioned by that document that resulted in the use of an overlay. Council's s32 report states *"The Rural Residential Development Strategy has been updated (2019) which has identified new opportunities and locations for future rural residential development by way of overlays that envisage a change in the zoning from Rural to Large Lot Residential Zone."*⁵

3.17 The Council officer's s42A report states that land could be rezoned to Large Lot Residential Zone due to the overlay, however contradicts this statement by saying that the underlying zone has to be considered in terms of defining the urban environment. In my opinion, this overlooks the objectives and policies (as stated above) of the NPS-UD which the Proposed Plan must give effect to. The overlay is not a zone; it is the mechanism that is used for future zoning and envisions that the site is to be Large Lot Residential Zone. The overlay allows and directly provides for the urban environment and therefore constitutes inclusion into the definition of urban environment. It may well be that through this process the overlay is changed to a future development zone (being a defined zone in the

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National Planning Standards) but I understand that this matter is not pertinent to the topic of this specific brief of evidence. This does highlight however the caution that needs to be applied in disregarding land earmarked for future urban activities from the definition of Urban Development.

- 3.18 As the plan has been written a Non-Complying Resource Consent could still be applied for with the overlay in place. SUB-P6 is not the only way to have what the overlay envisions however, it is not clear in the drafting of the proposed District Plan how much weight the overlay zone carries through a resource consent process. Efficient design can be achieved without undertaking an Outline Development Plan and further evidence to this effect will be presented at later streams.

The Council's 42A report makes light that "*The overlay is not the proposed zoning of the site and the site will remain as Rural Lifestyle Zone until the conditions of SUB-P6 have been met.*" Therefore, if this is the Council's position, development of this site could not occur until at least 2027 which is in direct contradiction to the Rural Residential Development Strategy that Council issued and relied on. It also highlights the incorrect use of an overlay as they are a special layer that manage a district wide issue or activity.⁶

Relief Sought

- 3.19 For the above reasons, I consider it appropriate to include the LLRZO in the definition of "*Urban Environment*" set out below.

Urban Environment

means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:

- a. *is, or is intended to be, predominantly urban in character;*
and

⁶ National Planning Standards: Zones and overlays – Spatial layers in plans, Ministry for the Environment 2017, [chrome-extension://efaidnbnmnibpcjpcglclefindmkaj/https://environment.govt.nz/assets/Publications/Files/Final-Discussion-Paper-C-Zones-and-overlays.pdf](https://environment.govt.nz/assets/Publications/Files/Final-Discussion-Paper-C-Zones-and-overlays.pdf)

- b. *is, or is intended to be, part of a housing and labour market of at least 10,000 people.*

For Waimakariri District, the urban environment described in (a) and (b) comprises the towns of Rangiora, Kaiapoi, Woodend (including Ravenswood), Pegasus, Oxford, Waikuku, Waikuku Beach, The Pines Beach, Kairaki, Woodend Beach, the small towns of Ashley, Sefton, Cust, Ohoka, Mandeville, all Large Lot Residential Zone areas, Large Lot Residential Zone Overlay areas and Special Purpose Zone (Kāinga Nohoanga).

Consequential Relief

3.20 In terms of including the LLRZO into the definition the following consequential relief to the UFD Chapter is proposed:

- (a) UFD-P1 requires the addition of “or overlay” at the end of point 1.

Samantha Leeanne Kealey

1 May 2023

UFD-P3 Identification/location and extension of Large Lot Residential Zone areas

In relation to the identification/location of Large Lot Residential Zone areas:

1. *new Large Lot Residential development is located in the Future Large Lot Residential Zone Overlay which adjoins an existing Large Lot Residential Zone as identified in the RRDS and is informed through the development of an ODP;*
2. *new Large Lot Residential development, other than addressed by (1) above, is located so that it:*
 - a. *occurs in a form that is attached to an existing Large Lot Residential Zone or Small Settlement Zone and promotes a coordinated pattern of development;*
 - b. *is not located within an identified Development Area of the District's main towns of Rangiora, Kaiapoi and Woodend identified in the Future Development Strategy;*
 - c. *is not on the direct edges of the District's main towns of Rangiora, Kaiapoi and Woodend, nor on the direct edges of these towns' identified new development areas as identified in the Future Development Strategy;*
 - d. *occurs in a manner that makes use of existing and planned transport infrastructure and the wastewater system, or where such infrastructure is not available, upgrades, funds and builds infrastructure as required, to an acceptable standard; and*
 - e. *is informed through the development of an ODP.*

SUB-P6 Criterial for Outline Development Plans

Ensure that new Residential Development Areas, new Large Lot Residential Zones, new Commercial and Mixed Use Zones and new Industrial Zones shall not be subdivided until an ODP for that area has been included in the District Plan and each ODP shall:

1. *be prepared as a single plan; and*
2. *be prepared in accordance with the following:*
 - a. *identify principal roads, connections and integration with the surrounding road networks, relevant infrastructure and areas for possible future development;*
 - b. *any land to be set aside:*
 - i. *for community facilities or schools;*
 - ii. *parks and land required for recreation or reserves;*
 - iii. *for business activities;*
 - iv. *the distribution of different residential densities;*

- v. *for the integrated management of water systems, including stormwater treatment, secondary flow paths, retention and drainage paths;*
 - vi. *from development for environmental or landscape protection or enhancement; and*
 - vii. *from development for any other reason, and the reasons for its protection.*
- c. *for new Residential Development Areas demonstrate how each ODP area will achieve a minimum net density of at least 15 lots or households per ha, unless there are demonstrated constraints then no less than 12 households per ha;*
 - d. *identify any cultural, natural, and historic heritage features and values and show how they are to be enhanced or maintained;*
 - e. *indicate how required infrastructure will be provided and how it will be funded;*
 - f. *set out the phasing and co-ordination of subdivision and development;*
 - g. *demonstrate how effective provision is made for a range of transport options, including public transport systems, pedestrian walkways and cycleways, both within and adjoining the ODP area;*
 - h. *for new Residential Development Areas, demonstrate how open space, playgrounds or parks for recreation will be provided within a 500m radius of new residential allotments including:*
 - i. *transport connectivity for active, public and other transport modes;*
 - ii. *connection to any other open space or community facility and other zones; and*
 - iii. *potential use of open space for stormwater management;*
 - i. *show how other potential adverse effects on and/or from nearby existing or designated strategic infrastructure (including requirements for designations, or planned infrastructure) will be avoided, remedied or appropriately mitigated;*
 - j. *show how other potential adverse effects on the environment, the protection and enhancement of surface and groundwater quality, are to be avoided, remedied or mitigated;*
 - k. *include any other information which is relevant to an understanding of the development and its proposed zoning; and*
 - l. *demonstrate that the design will minimise any reverse sensitivity effects.*